State of Arizona House of Representatives Forty-fifth Legislature Second Regular Session 2002

CHAPIER 129

## **HOUSE BILL 2551**

## AN ACT

AMENDING SECTIONS 11-483 AND 11-484, ARIZONA REVISED STATUTES; AMENDING SECTION 16-153, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 301, SECTION 1; AMENDING SECTION 28-454, ARIZONA REVISED STATUTES; RELATING TO CONFIDENTIALITY OF RECORDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



 Be it enacted by the Legislature of the State of Arizona: Section 1. Section 11-483, Arizona Revised Statutes, is amended to read:

## 11-483. Records maintained by county recorder; peace officers; prosecutors; confidentiality; definitions

- A. Notwithstanding any other provision of this article, in counties with a population of more than five hundred thousand persons according to the most recent United States decennial census a peace officer or prosecutor may request that the general public be prohibited from accessing the unique identifier and the recording date contained in indexes of recorded instruments maintained by the county recorder and may request the recorder to prohibit access to the peace officer's or prosecutor's residential address and telephone number contained in instruments or writings recorded by the county recorder and made available on the internet.
- B. A peace officer or prosecutor may request this action by filing an affidavit that states all of the following ON AN APPLICATION FORM DEVELOPED BY THE ADMINISTRATIVE OFFICE OF THE COURTS IN AGREEMENT WITH AN ASSOCIATION OF COUNTIES, AN ORGANIZATION OF PEACE OFFICERS AND THE MOTOR VEHICLE DIVISION OF THE DEPARTMENT OF TRANSPORTATION:
- 1. The peace officer's or prosecutor's FULL LEGAL name AND RESIDENTIAL ADDRESS.
- 2. The full legal description and parcel number of the peace officer's or prosecutor's property.
- 3. The position the peace officer or prosecutor currently holds and a description of the peace officer's or prosecutor's duties.
- 4. The reasons the peace officer or prosecutor reasonably believes that the peace officer's or prosecutor's life or safety or that of another person is in danger and that restricting access pursuant to this section will serve to reduce the danger.
- 5. The recording DOCUMENT LOCATOR number and recording date of each instrument for which the peace officer or prosecutor requests access restriction pursuant to this section.
- 6. A COPY OF PAGES FROM EACH INSTRUMENT THAT INCLUDES THE DOCUMENT LOCATOR NUMBER AND THE PEACE OFFICER'S OR PROSECUTOR'S FULL LEGAL NAME AND RESIDENTIAL ADDRESS OR FULL LEGAL NAME AND TELEPHONE NUMBER.
- C. If a peace officer or prosecutor is also requesting pursuant to section 11-484 that the general public be prohibited from accessing records maintained by the county assessor and county treasurer, the peace officer or prosecutor may combine the request pursuant to subsection B of this section with the request pursuant to section 11-484 by filing one affidavit with the officer's commanding officer, or with the head of the prosecuting agency or that person's designee. The affidavit and subsequent action by the appropriate authorities shall meet all of the requirements of this section and section 11-484.

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- D. The affidavit shall be filed with the presiding judge of the superior court in the county in which the affiant resides. To prevent a multiplicity of filings, a peace officer or prosecutor shall deliver the affidavit to the peace officer's commanding officer, or to the head of the prosecuting agency or that person's designee, who shall file the affidavits at one time. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier presentation, the commanding officer, or the head of the prosecuting agency or that person's designee, shall not file affidavits more often than quarterly.
- E. On receipt of an affidavit or affidavits, the presiding judge of the superior court shall file with the clerk of the superior court a petition on behalf of all requesting peace officers or prosecutors. Each affidavit presented shall be attached to the petition. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier consideration, the presiding judge may accumulate affidavits and file a petition at the end of each quarter.
- F. The presiding judge of the superior court shall review the petition and each attached affidavit to determine whether the action requested by each peace officer or prosecutor should be granted. If the presiding judge of the superior court concludes that the action requested by the peace officer or prosecutor will reduce a danger to the life or safety of the peace officer, prosecutor or another person, the presiding judge of the superior court shall order that the recorder prohibit access for five years to the peace officer's or prosecutor's residential address and telephone number contained in instruments or writings recorded by the county recorder and made available on the internet. If the presiding judge of the superior court concludes that the peace officer, the prosecutor or another person is in actual danger of physical harm from a person or persons with whom the peace officer or prosecutor has had official dealings and that action pursuant to this section will reduce a danger to the life or safety of the peace officer, the prosecutor or another person, the presiding judge of the superior court shall order that the general public be prohibited for five years from accessing the unique identifier and the recording date contained in indexes of recorded instruments maintained by the county recorder and identified pursuant to subsection B of this section.
- G. ON MOTION TO THE COURT, IF THE PRESIDING JUDGE OF THE SUPERIOR COURT CONCLUDES THAT AN INSTRUMENT OR WRITING RECORDED BY THE COUNTY RECORDER HAS BEEN REDACTED OR SEALED IN ERROR, THAT THE ORIGINAL AFFIANT NO LONGER LIVES AT THE ADDRESS LISTED IN THE ORIGINAL AFFIDAVIT, THAT THE CAUSE FOR THE ORIGINAL AFFIDAVIT NO LONGER EXISTS OR THAT TEMPORARY ACCESS TO THE INSTRUMENT OR WRITING IS NEEDED, THE PRESIDING JUDGE MAY TEMPORARILY STAY OR PERMANENTLY VACATE ALL OR PART OF THE COURT ORDER PROHIBITING PUBLIC ACCESS TO THE RECORDED INSTRUMENT OR WRITING.

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6. H. On entry of the court order, the clerk of the superior court shall file the court order and a copy of the affidavit required by subsection B of this section with the county recorder. No more than ten days after the date on which the county recorder receives the court order, the county recorder shall restrict access to the information as required by subsection F of this section.

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- H. I. If the court denies an affiant's request pursuant to this section, the affiant may request a court hearing. The hearing shall be conducted by the court in the county where the petition was filed.
- ${\it f.}$  J. The recorder shall remove the restrictions on all records restricted pursuant to this section by January 5 in the year after the court order expires.
- J. K. To include subsequent recordings in the court order, the peace officer or prosecutor shall present to the county recorder at the time of recordation a certified copy of the court order. The recorder shall insure that public access shall be restricted pursuant to subsection A of this section.
- K. L. This section shall not be interpreted to restrict access to public records for the purposes of perfecting a lien pursuant to title 12, chapter 9, article 2.
- t. M. This section does not prohibit access to the records of the county recorder by PARTIES TO THE INSTRUMENT, a title insurer, a title insurance agent or an escrow agent licensed by the department of insurance or the department of banking.
  - M. N. For the purposes of this section:
- 1. "Indexes" means only those indexes that are maintained by and located in the office of the county recorder, that are accessed electronically and that contain information beginning from and after January 1. 1987.
- 2. "Peace officer" means any person vested by law, or formerly vested by law, with a duty to maintain public order and make arrests.
- 3. "Prosecutor" means A county attorney, A municipal prosecutor or THE attorney general and INCLUDES an assistant or deputy county attorney, municipal prosecutor or attorney general.
  - Sec. 2. Section 11-484, Arizona Revised Statutes, is amended to read: 11-484. Records maintained by county assessor and county treasurer: peace officers: prosecutors: redaction: definitions

A. Notwithstanding any other provision of this article, in counties with a population of more than five hundred thousand persons according to the most recent United States decennial census a peace officer or prosecutor may request that the general public be prohibited from accessing the peace officer's or prosecutor's residential address and telephone number that are contained in instruments, writings and information maintained by the county assessor and the county treasurer.

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- B. A peace officer or prosecutor may request this action by filing an affidavit that states all of the following ON AN APPLICATION FORM DEVELOPED BY THE ADMINISTRATIVE OFFICE OF THE COURTS IN AGREEMENT WITH AN ASSOCIATION OF COUNTIES, AN ORGANIZATION OF PEACE OFFICERS AND THE MOTOR VEHICLE DIVISION OF THE DEPARTMENT OF TRANSPORTATION:
- 1. The peace officer's or prosecutor's FULL LEGAL name AND RESIDENTIAL ADDRESS.
- 2. The full legal description and parcel number of the peace officer's or prosecutor's property.
- 3. The position the peace officer or prosecutor currently holds and a description of the peace officer's or prosecutor's duties.
- 4. The reasons the peace officer or prosecutor reasonably believes that the peace officer's or prosecutor's life or safety or that of another person is in danger and that redacting the residential address and telephone number will serve to reduce the danger.
- C. If a peace officer or prosecutor is also requesting pursuant to section 11-483 that the general public be prohibited from accessing records maintained by the county recorder, the peace officer or prosecutor may combine the request pursuant to subsection B of this section with the request pursuant to section 11-483 by filing one affidavit with the officer's commanding officer, or with the head of the prosecuting agency or that person's designee. The affidavit and subsequent action by the appropriate authorities shall meet all of the requirements of this section and section 11-483.
- D. The affidavit shall be filed with the presiding judge of the superior court in the county in which the affiant resides. To prevent a multiplicity of filings, a peace officer or prosecutor shall deliver the affidavit to the peace officer's commanding officer, or to the head of the prosecuting agency or that person's designee, who shall file the affidavits at one time. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier presentation, the commanding officer, or the head of the prosecuting agency or that person's designee, shall not file affidavits more often than quarterly.
- E. On receipt of an affidavit or affidavits, the presiding judge of the superior court shall file with the clerk of the superior court a petition on behalf of all requesting peace officers or prosecutors. Each affidavit presented shall be attached to the petition. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier consideration, the presiding judge may accumulate affidavits and file a petition at the end of each quarter.
- F. The presiding judge of the superior court shall review the petition and each attached affidavit to determine whether the action requested by each peace officer or prosecutor should be granted. If the presiding judge of the superior court concludes that the action requested by the peace officer or

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 prosecutor will reduce a danger to the life or safety of the peace officer or prosecutor or another person, the presiding judge of the superior court shall order the redaction of the peace officer's or prosecutor's residential address and telephone number that are contained in instruments, writings and information maintained by the county assessor and the county treasurer. The redaction shall be in effect for five years.

- G. ON MOTION TO THE COURT, IF THE PRESIDING JUDGE OF THE SUPERIOR COURT CONCLUDES THAT AN INSTRUMENT OR WRITING MAINTAINED BY THE COUNTY ASSESSOR OR THE COUNTY TREASURER HAS BEEN REDACTED OR SEALED IN ERROR, THAT THE ORIGINAL AFFIANT NO LONGER LIVES AT THE ADDRESS LISTED IN THE ORIGINAL AFFIDAVIT, THAT THE CAUSE FOR THE ORIGINAL AFFIDAVIT NO LONGER EXISTS OR THAT TEMPORARY ACCESS TO THE INSTRUMENT OR WRITING IS NEEDED, THE PRESIDING JUDGE MAY TEMPORARILY STAY OR PERMANENTLY VACATE ALL OR PART OF THE COURT ORDER PROHIBITING PUBLIC ACCESS TO THE INSTRUMENT OR WRITING.
- 6. H. On entry of the court order, the clerk of the superior court shall file the court order and a copy of the affidavit required by subsection B of this section with the county assessor and the county treasurer. No more than ten days after the date on which the county assessor and the county treasurer receive the court order, the county assessor and the county treasurer shall restrict access to the information as required by subsection F of this section.
- H: I. If the court denies an affiant's request pursuant to this section, the affiant may request a court hearing. The hearing shall be conducted by the court in the county where the petition was filed.
- 1. J. The county assessor and the county treasurer shall remove the restrictions on all records that are redacted pursuant to this section by January 5 in the year after the court order expires.
  - J. K. For the purposes of this section:
- 1. "Peace officer" means any person vested by law, or formerly vested by law, with a duty to maintain public order and make arrests.
- 2. "Prosecutor" means A county attorney, A municipal prosecutor or THE attorney general and INCLUDES an assistant or deputy county attorney, municipal prosecutor or attorney general.
- Sec. 3. Section 16-153, Arizona Revised Statutes, as amended by Laws 2001, chapter 301, section 1, is amended to read:

## 16-153. <u>Voter registration; confidentiality; definitions</u>

A. Justices of the supreme court, judges of the court of appeals, judges or commissioners of the superior court, municipal court judges, peace officers, prosecutors, public defenders, victims of domestic violence or persons who are protected under an order of protection or injunction against harassment, and any other registered voter who resides at the same residence address as the justice, judge, commissioner, PEACE OFFICER, prosecutor officer, public defender officer or protected person, may request that the general public be prohibited from accessing the residential address,

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telephone number and voting precinct number contained in their voter registration record.

- B. Justices, judges, commissioners, prosecutors, public defenders or PEACE officers may request this action by filing an affidavit which THAT states all of the following ON AN APPLICATION FORM DEVELOPED BY THE ADMINISTRATIVE OFFICE OF THE COURTS IN AGREEMENT WITH AN ASSOCIATION OF COUNTIES AND AN ORGANIZATION OF PEACE OFFICERS:
- 1. The person's FULL LEGAL name, RESIDENTIAL ADDRESS AND DATE OF BIRTH.
- 2. The position the person currently holds and a description of the person's duties.
- 3. The reasons for reasonably believing that the person's life or safety or that of another person is in danger and that sealing the residential address, telephone number and voting precinct number of the person's voting record will serve to reduce the danger.
- C. The affidavit shall be filed with the presiding judge of the superior court in the county in which the affiant resides. To prevent a multiplicity of filings, peace officers shall deliver the affidavit to their commanding officer who shall file the affidavits at one time, prosecutors shall deliver the affidavit to the head of the prosecuting agency or that person's designee who shall file the affidavits at one time, and public defenders shall deliver the affidavit to the head of the public defending agency or that person's designee who shall file the affidavits at one time. In the absence of an affidavit that contains a request for immediate action and is supported by facts justifying an earlier presentation, the commanding officer, the head of the prosecuting agency or that person's designee or the head of the public defending agency or that person's designee shall not file affidavits more often than quarterly.
- D. Upon receipt of an affidavit or affidavits, the presiding judge of the superior court shall file with the clerk of the superior court a petition on behalf of all requesting justices, judges, commissioners, prosecutors, public defenders and peace officers. The petition shall have attached each affidavit presented. In the absence of an affidavit that contains a request for immediate action and is supported by facts justifying an earlier consideration, the presiding judge may accumulate affidavits and file a petition at the end of each quarter.
- E. The presiding judge of the superior court shall review the petition and each attached affidavit to determine whether the action requested by each justice, judge, commissioner, prosecutor, public defender or officer AFFIANT should be granted. The presiding judge of the superior court shall order the sealing FOR FIVE YEARS of the information contained in the voter record of the justice, judge, commissioner, prosecutor, public defender or officer AFFIANT and, on request, any other registered voter who resides at the same residence address if the presiding judge concludes that this action will reduce a danger to the life or safety of the affiant.

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- F. THE RECORDER SHALL REMOVE THE RESTRICTIONS ON ALL VOTER RECORDS SUBMITTED PURSUANT TO SUBSECTION E OF THIS SECTION BY JANUARY 5 IN THE YEAR AFTER THE COURT ORDER EXPIRES.
- F: G. Upon entry of the court order, the clerk of the superior court shall file the court order with the county recorder. Upon receipt of the court order the county recorder shall seal the voter registration of the justices, judges, commissioners, prosecutors, public defenders, PEACE officers and other persons listed in the court order no later than one hundred twenty days from the date of receipt of the court order. The information in the registration shall not be disclosed and is not a public record.
- G. H. If the court denies an affiant's requested sealing of the voter registration record, the affiant may request a court hearing. The hearing shall be conducted by the court where the petition was filed.
- I. ON MOTION TO THE COURT, IF THE PRESIDING JUDGE OF THE SUPERIOR COURT CONCLUDES THAT A VOTER REGISTRATION RECORD HAS BEEN SEALED IN ERROR OR THAT THE CAUSE FOR THE ORIGINAL AFFIDAVIT NO LONGER EXISTS, THE PRESIDING JUDGE MAY VACATE THE COURT ORDER PROHIBITING PUBLIC ACCESS TO THE VOTER REGISTRATION RECORD.
- H. J. Upon request by a domestic violence victim or person who is protected under an order of protection or injunction against harassment and presentation of an order of protection issued pursuant to section 13-3602, an injunction against harassment issued pursuant to section 12-1809 or an order of protection or injunction against harassment issued by a court in another state, the county recorder shall seal the voter registration record of the domestic violence victim or person who is protected and, on request, any other registered voter who resides at the residence address of the protected person. The record shall be sealed no later than one hundred twenty days from the date of receipt of the court order. The information in the registration shall not be disclosed and is not a public record.
  - T. K. For the purposes of this section:
- 1. "Domestic violence" has the same meaning as prescribed by section 20-448.
- 2. "Prosecutor" means A United States attorney, A county attorney, A municipal prosecutor or THE attorney general and INCLUDES an assistant or deputy United States attorney, county attorney, municipal prosecutor or attorney general.
- 3. "Public defender" means a federal public defender, county public defender, county legal defender or county contract indigent defense counsel and INCLUDES an assistant or deputy federal public defender, county public defender or county legal defender.

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Sec. 4. Section 28-454, Arizona Revised Statutes, is amended to read: 28-454. <u>Public records: peace officers: prosecutors: redaction: definition</u>

- A. Notwithstanding sections 28-447 and 28-452, a peace officer or prosecutor may request that persons be prohibited from accessing the peace officer's or prosecutor's residential address and telephone number contained in any record maintained by the department.
- B. A peace officer or prosecutor may request this action by filing an affidavit that states all of the following ON AN APPLICATION FORM DEVELOPED BY THE ADMINISTRATIVE OFFICE OF THE COURTS IN AGREEMENT WITH AN ASSOCIATION OF COUNTIES, AN ORGANIZATION OF PEACE OFFICERS AND THE DEPARTMENT:
- 1. The peace officer's or prosecutor's FULL LEGAL name AND RESIDENTIAL ADDRESS.
- 2. The position the peace officer or prosecutor currently holds and a description of the peace officer's or prosecutor's duties.
- 3. The reasons the peace officer or prosecutor reasonably believes that the peace officer's or prosecutor's life or safety or that of another person is in danger and that redacting the residential address and telephone number from the department's public records will serve to reduce the danger.
- C. The affidavit shall be filed with the presiding judge of the superior court in the county in which the affiant resides. To prevent a multiplicity of filings, a peace officer shall deliver the affidavit to the peace officer's commanding officer, who shall file the affidavits at one time, and prosecutors shall deliver the affidavit to the head of the prosecuting agency or that person's designee, who shall file the affidavits at one time. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier presentation, the commanding officer, or the head of the prosecuting agency or that person's designee, shall not file affidavits more often than quarterly.
- D. On receipt of an affidavit or affidavits, the presiding judge of the superior court shall cause to be filed with the clerk of the superior court a petition on behalf of all requesting peace officers and prosecutors. Each affidavit presented shall be attached to the petition. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier consideration, the presiding judge may accumulate affidavits and file a petition at the end of each quarter.
- E. The presiding judge of the superior court shall review the petition and each attached affidavit to determine whether the action requested by each peace officer and prosecutor should be granted. The presiding judge of the superior court shall order the redaction of the residence address and telephone number from the public records maintained by the department if the judge concludes that this action will reduce a danger to the life or safety of the affiant or another person.

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- F. On entry of the court order, the clerk of the superior court shall file the court order with the department. No more than one hundred fifty days after the date the department receives the court order, the department shall redact the residence addresses and telephone numbers of the peace officers and prosecutors listed in the court order from the public records of the department. The residence address ADDRESSES and telephone number NUMBERS shall not be disclosed and are not part of a public record.
- G. If the court denies an affiant's request pursuant to this section, the affiant may request a court hearing. The hearing shall be conducted by the court in the county where the petition was filed.
- H. ON MOTION TO THE COURT, IF THE PRESIDING JUDGE OF THE SUPERIOR COURT CONCLUDES THAT A RESIDENTIAL ADDRESS OR TELEPHONE NUMBER HAS BEEN SEALED IN ERROR OR THAT THE CAUSE FOR THE ORIGINAL AFFIDAVIT NO LONGER EXISTS, THE PRESIDING JUDGE MAY VACATE THE COURT ORDER PROHIBITING PUBLIC ACCESS TO THE RESIDENTIAL ADDRESS OR TELEPHONE NUMBER.
- H. I. For the purposes of this section, "prosecutor" means A county attorney, A municipal prosecutor or THE attorney general and INCLUDES an assistant or deputy county attorney, municipal prosecutor or attorney general.

APPRIVED BY THE GOVERNOR MAY 1, 2002.

FILED IN HE OFFICE OF THE SECRETARY OF STATE MAY 2, 2002.



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Passed the House April 8, 2002,	Passed the Senate April 35, 2002
by the following vote: 43 Ayes,	by the following vote: 27 Ayes,
7 Nays, 10 Not Voting	Nays, 3 Not Voting
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Speaker of the House	President of the Senate
Morman L. Moore	Chainin Billington
Chief Clerk of the House	Secretary of the Senate
	ARTMENT OF ARIZONA OF GOVERNOR
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day of	April 2002
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Secretary to the Gov	Xay
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Approved this day of	
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at 2:56 o'clock PM.	
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Governor of Arizona	EXECUTIVE DEPARTMENT OF ARIZONA
	OFFICE OF SECRETARY OF STATE
	This Bill was received by the Secretary of State
	this 2nd day of May , 2002
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	at 4:83 o'clock P. M.
	Secretary of State